

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE**

ROBERT & CHRISTINE MORRISON,

Plaintiffs,

vs.

**Case No.: _____
Jury Demanded**

**STATE FARM INSURANCE COMPANIES,
d/b/a STATE FARM INSURANCE,
d/b/a STATE FARM FIRE AND CASUALTY,**

**Removed from the Circuit Court of
Morgan County, TN, Case No.: 6690C**

Defendants.

DEFENDANT STATE FARM FIRE & CASUALTY CO.'S NOTICE OF REMOVAL

Defendant State Farm Fire & Casualty Co. incorrectly named as "State Farm Insurance Companies d/b/a State Farm Insurance d/b/a State Farm Fire and Casualty" ("State Farm") hereby files this Notice of Removal of this action from the Circuit Court for Morgan County, Tennessee, to this Court pursuant to 28 U.S.C. §§1332, 1441 and 1446. In support of this Notice of Removal, defendant State Farm would show the Court the following:

1. Plaintiffs Robert and Christine Morrison filed a Complaint against State Farm in the Circuit Court for Morgan County, Tennessee, at Wartburg on February 27, 2009 (Case No. 6690C). The Summons and Complaint were served on defendant State Farm on April 2, 2009.
2. True and correct copies of all process, pleadings and orders issued to defendant State Farm in the removed action are attached hereto as Exhibit "A."
3. Plaintiffs are citizens of the State of Tennessee.
4. Defendant State Farm is a mutual insurance company organized under the laws of the

State of Illinois with its principal place of business in Bloomington, Illinois.

5. As recited in the ad damnum of the Complaint, plaintiffs seek compensatory damages in the amount of \$500,000.00 and punitive damages in the amount of \$1,500,000.00.

6. This Court has original jurisdiction over this civil action pursuant to 28 U.S.C. §1332, as complete diversity of citizenship exists between the parties and the amount in controversy exceeds \$75,000.00 exclusive of interest and costs.

7. The time for filing this petition for removal under the provisions of 28 U.S.C. §§1332, 1441 and 1446 has not expired as this Notice of Removal has been filed with the Court within thirty (30) days of service of the state court action upon State Farm.

8. A written notice of the filing of this Notice of Removal has been served on counsel for the plaintiffs as required by 28 U.S.C. §1446(d).

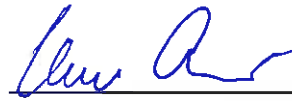
9. A true and exact copy of both this Notice of Removal and Notice to State of Removal of Claims to the United States District Court have been mailed to the Morgan County Circuit Court Clerk's Office for filing in accordance with the provisions of 28 U.S.C. §1446(d). A true and exact copy of the Notice to State of Removal of Claims to the United States District Court is attached hereto as Exhibit "B."

10. In filing this Notice of Removal, defendant State Farm specifically preserves all available affirmative defenses, including the defenses available to it pursuant to Rule 12(b) of the Federal Rules of Civil Procedure.

WHEREFORE, defendant State Farm respectfully requests removal of this action from the Circuit Court of Morgan County, Tennessee at Wartburg to the United States District Court, Eastern District of Tennessee at Knoxville.

Respectfully submitted,

**BAKER, O'KANE,
ATKINS & THOMPSON**



MICHAEL K. ATKINS, BPR #017862
2607 Kingston Pike, Suite 200
P.O. Box 1708
Knoxville, Tennessee 37901-1708
(865) 637-5600
(865) 637-5608 (fax)
**Attorney for State Farm Insurance
Companies d/b/a State Farm Insurance
d/b/a State Farm Fire and Casualty**

CERTIFICATE OF SERVICE

I, Michael K. Atkins, hereby certify that a true and exact copy of the foregoing document has
been served via U.S. Mail on April 29, 2009:

**John T. Sholly, Esq.
1522 Washington Pike
P.O. Box 1491
Knoxville, TN 37901-1491**

**Pam Lively, Clerk
Morgan County Circuit Court
Morgan County Courthouse
Wartburg, TN 37887**



MICHAEL K. ATKINS

04/15/2009 1:52PM 1590 STATE FARM

APR 08 2009



STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
500 JAMES ROBERTSON PARKWAY
NASHVILLE, TN 37243-1131

REC'D BY G. RON NICHOLS

APR 07 2009

ROUTE TO:
COPIES TO:

April 03, 2009

State Farm Fire & Casualty Co.
2500 Memorial Boulevard
Murfreesboro, TN 37131-0001
NAJC #25143

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7008 1830 0000 6982 5492
Cashier # 2475

Re: Robert & Christine Morrison V. State Farm Fire & Casualty Co.

Docket # 6690C

To Whom It May Concern:

We are enclosing herewith a document that has been served on this department on your behalf in connection with the above-styled matter.

I hereby make oath that the attached Breach Of Contract Complaint was served on me on April 02, 2009 by Robert & Christine Morrison pursuant to Tenn. Code Ann. § 56-2-504 or § 56-2-506. A copy of this document is being sent to the Circuit Court of Morgan County, TN.

Brenda C. Meade
Designated Agent
Service of Process

Enclosures

cc: Circuit Court Clerk
Morgan County
P O Box 163
Warburg, Tn 37887

Exhibit "A"

Service of Process 615.532.5250

IN THE CIRCUIT COURT FOR MORGAN COUNTY, TENNESSEE
AT WARTBURG

ROBERT & CHRISTINE MORRISON,
Plaintiffs,

vs.

STATE FARM INSURANCE COMPANIES,
d/b/a: STATE FARM INSURANCE,
d/b/a: STATE FARM FIRE AND CASUALTY,
Defendants.

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6690C

JURY TRIAL DEMANDED
No.: 6690C

SUMMONS

TO: STATE FARM INSURANCE COMPANIES, STATE FARM INSURANCE, STATE FARM FIRE AND CASUALTY, C/O Tennessee Department of Commerce and Insurance, Fifth Floor, 500 James Robertson Parkway, Nashville, Tennessee 37243

You are hereby summoned and required to serve upon John T. Sholly, Plaintiff's attorney, whose address is P.O. Box 1491, Knoxville, Tennessee 37901, a true copy of the defense to the petition which is herewith served upon you, with 30 days after service of this summons upon you, exclusive of the date of service. You will file the original pleading with the Court.

If you fail to do so, judgment by default will be taken against you for the relief herein demanded.

Issued this 27th day of March, 2009 at 3:50 o'clock p. m. Witness, Clerk of said Court,
at office in Morgan County, Tennessee.

CLERK: Pam Lively

By:

Angela L. Lively
Deputy Clerk

NOTICE TO THE DEFENDANT (S):

Tennessee law provides a four thousand dollar (\$4,000.00) personal property exemption from execution or seizure to satisfy a judgment. If a judgment should be entered against you in this action and you wish to claim property as exempt, you must file a written list, under oath, of the items you wish to claim as exempt with the clerk of the court. The list may be filed at any time and may be changed by you thereafter as necessary; however, unless it is filed before the judgment becomes final, it will not be effective as to any execution of garnishment issued prior to the filing of the list. Certain items are automatically exempt by law and do not need to be listed; these include items of necessary wearing apparel (clothing) for yourself and your family and trunks or other receptacles necessary to contain such apparel, family portraits, the family Bible, and school books. Should any of these items be seized you would have the right to recover them. If you do not understand your exemption right or how to exercise it, you may wish to seek the counsel of a lawyer. T.C.A. § 26-2-114.

FILED

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3:50 PM
MORGAN CO. CIRCUIT CLERK

RECEIVED this 27th day of March, 2009, Pam Lively / Angela Lemono
CLERK/Deputy Sheriff Clerk

RETURN ON SERVICE OF SUMMONS

I hereby certify and return that on the _____ day of _____, 2009, I served
this summons together with the petition as follows:

or I failed to serve this summons within 30 days after its issuance because _____

Clerk/Sheriff/Deputy Sheriff

Feb 27, 09 03:10p rob

865-475-8701

P. 3

IN THE CIRCUIT COURT FOR MORGAN COUNTY, TENNESSEE
AT WARTBURG

ROBERT & CHRISTINE MORRISON,
 Plaintiffs,

vs.

STATE FARM INSURANCE COMPANIES,
 aka: STATE FARM INSURANCE,
 aka: STATE FARM FIRE AND CASUALTY,
 Defendants.

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JURY TRIAL DEMANDED
 No.: 6690C

COMPLAINT

Come now the Plaintiffs, Robert and Christine Morrison, by and through counsel, and would file this Complaint against the Defendant to recover reasonable compensation for personal property damage sustained by them. In support of this cause the plaintiffs would respectfully show unto the Court the following:

I.

Plaintiffs, Robert and Christine Morrison, were at the time of the accident, and still are, residents of Morgan County, Tennessee residing at 375 Perkins Trail, Deer Lodge, Tennessee

37923.

II.

Defendant, STATE FARM INSURANCE COMPANIES, was at the time of the accident, and still is, an insurance business licensed and registered to operate in the state of Tennessee.

III.

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 BC
 MORGAN CO. CIRCUIT CLERK

IV.

State Farm Insurance Companies provided home owners insurance for the plaintiffs for the above named residence on March 1, 2007.

V.

At said time and place, the plaintiffs' residence suffered severe weather damage, including being struck by lightning, causing significant property damage to the residence.

VI.

The home owners policy, issued by State Farm Insurance Companies, and in full force and effect on March 1, 2007, specifically insured against damage by lightning strikes and other weather conditions.

VII.

The plaintiffs, on their own, and with the assistance of counsel, have attempted to resolve this case to a satisfactory conclusion since the incident occurred.

VIII.

The defendant has refused to acknowledge that any damage was caused to the plaintiffs' residence structure, including electrical wiring, and the structure itself.

IX.

The defendant has refused to acknowledge this, even after being presented with a report from a professional engineer that confirmed that damage was caused by a lightning strike, and also after hearing from their own claim investigators that damage to the plaintiffs' residential structure was caused by a lightning strike.

X.**BREACH OF CONTRACT**

The above nine paragraphs are hereby incorporated by reference. The actions of the defendant as outlined in paragraphs one through nine above constitute a willful breach of the insurance contract between the plaintiffs and the defendant.

XI.**T.C.A. § 56-7-105 - ACTING IN BAD FAITH**

The above nine paragraphs are hereby incorporated by reference. The actions of the defendant as outlined in paragraphs one through nine above constitute acting in bad faith on the part of the insurance company.

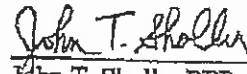
XII.**T.C.A. § 56-8-104(8) - UNFAIR OR DECEPTIVE ACTS**

The above nine paragraphs are hereby incorporated by reference. The actions of the defendant as outlined in paragraphs one through nine above constitute unfair or deceptive acts on the part of the insurance company.

WHEREFORE, Plaintiffs demands the following:

1. That proper process issue and be served upon the defendant, and that the defendant be required to appear to answer the Complaint within the time required by law.
2. That Plaintiffs be awarded a judgment against the defendant in the amount of Five Hundred Thousand Dollars (\$500,000.00) in compensatory damages, and One Million Five Hundred Thousand Dollars (\$1,500,000.00) in punitive damages.
3. That the costs of this action be awarded to Plaintiff.
4. That a jury of twelve persons be impaneled to try this cause.
5. Such further and other general relief to which Plaintiff may be entitled.

Respectfully Submitted,


John T. Sholly, BPR #16900
Attorney for Plaintiff
P.O. Box 1491
Knoxville, TN 37901-1491
(865) 673-5040

COST BONDWe Robert & CHRISTINE MORRISON

as Principals, and John T. Sholly
 as Surety, are held and firmly bound unto the Circuit Court Clerk of Morgan County, Tennessee
 for the payment of all costs awarded against the principal. To that end, we bind ourselves, our
 heirs, executors and administrators.

The Principals are commencing legal proceeding in the Circuit Court of Morgan County,
 Tennessee. If the Principals pay all costs which are adjudged against them then this obligation is
 void. If the Principals fail to pay then the surety shall undertake to pay all costs adjudged against
 the Principals. Mandated at T.C.A. 20-12-120 et seq.

PRINCIPALS

Robert Morrison
 Principal

Social Security # _____

575 Perkins Trank Deer Lodge, TN 37923
 Address

self
 Employer

 Employer's address

SURETY

John T. Sholly
 SURETY

John T. Sholly
 SIGNATURE OF SURETY

P.O. Box 1491
KNOXVILLE, TN 3710
(805) 809-8059
 Address

**IN THE CIRCUIT COURT FOR MORGAN COUNTY, TENNESSEE
AT WARTBURG**

ROBERT & CHRISTINE MORRISON,

Plaintiffs,

vs.

**No.: 6690C
Jury Demanded**

**STATE FARM INSURANCE COMPANIES,
d/b/a STATE FARM INSURANCE,
d/b/a STATE FARM FIRE AND CASUALTY,**

Defendants.

**NOTICE TO STATE OF REMOVAL OF CLAIMS
TO THE UNITED STATES DISTRICT COURT**

**TO: Pam Lively, Circuit Court Clerk
Morgan County Courthouse
Wartburg, TN 37887**

Please take notice that the defendant, State Farm Fire and Casualty Company incorrectly named as "State Farm Insurance Companies d/b/a State Farm Insurance d/b/a State Farm Fire and Casualty" ("State Farm") has filed a Notice of Removal of the claims asserted against defendant State Farm in the above-styled matter with the office of the Clerk of the United States District Court for the Eastern District of Tennessee at Knoxville on April 29, 2009 pursuant to 28 U.S.C. § 1332, 1441 and 1446. A copy of said Notice of Removal is attached hereto as Exhibit "A."

Respectfully submitted,

**BAKER, O'KANE,
ATKINS & THOMPSON**



**MICHAEL K. ATKINS, BPR #017862
2607 Kingston Pike, Suite 200
P.O. Box 1708
Knoxville, Tennessee 37901-1708
(865) 637-5600; (865) 637-5608 (fax)
Attorney for State Farm Fire
and Casualty Company**

Exhibit "B"

CERTIFICATE OF SERVICE

I, Michael K. Atkins, hereby certify that a true and exact copy of the foregoing document has been served via U.S. Mail on April 29, 2009:

**John T. Sholly, Esq.
1522 Washington Pike
P.O. Box 1491
Knoxville, TN 37901-1491**



MICHAEL K. ATKINS